The Senator from Nebraska.

Mr. JOHANNS. Madam President, I ask unanimous consent to enter into a colloquy with my Republican colleagues, Senator GRASSLEY of Iowa and Senator COBURN of Oklahoma, for up to 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH INSURANCE

Mr. JOHANNS. Recently, the Des Moines Register reported that an Iowa-based insurance company has decided to exit the health insurance market, abandoning insurance sales directly to individuals and families. So what is the net effect of all of that? Thirty-five thousand policyholders will lose their insurance. It calls to mind the famous promise by the President: If you like your plan, you can keep it.

The story doesn't stop there. It has an even more profound impact on the lives of real people. The impact goes on. One hundred ten employees will lose their jobs. Seventy of those employees are in Nebraska. That calls to mind Speaker PELOSI's broken promise: The law will create 4 million jobs—400,000 jobs almost immediately.

The driving factor for all of this is a Health and Human Services regulation required by the health care law which micromanages how insurance companies can spend their revenues.

Unfortunately, this job loss in Nebraska is not an anomaly. A recent survey of nearly 2,400 independent health insurance agents and brokers from all over came to this conclusion. One month after this HHS regulation took effect, more than 70 percent had experienced a decline in their revenues. And, more shocking, nearly 5 percent had lost their jobs.

The Government Accountability Office reported that most of the insurers they interviewed were reducing individuals' commissions. These are not the big insurance companies that were railed against in the health care debate. These are not the big insurance companies that are being squeezed. The good folks who are being squeezed are the mom-and-pop agencies that we find on Main Street throughout the United States. Yes, these are the folks we go to to support the local football team, the local high school, the local 4–H club, whatever the civic cause may be. And yet, with unemployment hovering around 9 percent, the health care law puts the hammer on these people. I reached the conclusion long ago that the health care law is bad for job creation and it is bad for keeping your job.

The Des Moines-based insurance company's CEO's job loss, according to him, was:

> A fairly predictable consequence of the regulation.

UBS Investment Research called the health care law:

> The biggest impediment to hiring . . . which has the added drawback of straining State and Federal budgets.

The National Federation of Independent Businesses said:

> Small business owners everywhere are rightfully concerned that the unconstitutional new mandates, countless rules and new taxes in the health care law will devastate their businesses and their ability to create jobs.

What we are seeing with this law is a massive amount of overregulation. According to a recent Wells Fargo-Gallup small business poll, government regulations are the most important problem facing our small business owners. If we just focus again on the health care law, that legislation alone has resulted in 10,000 pages of new Federal regulations and notices—10,000 pages. How could any small business comply?

The employer mandate penalizes employers for growing. It is as simple as that. It forces employers who do not provide acceptable coverage to pay a penalty of $2,000 per full-time employee. But, you see, the penalty is applied to firms with more than 50 employees. And as a small business owner in the Bellevue, NE, area recently explained to me:

> I'm not growing my business over 50 employees. I don't want to deal with your health care law.

Well, as I mentioned, this discussion starts, at least today, with that article in the Des Moines Register.

With me today is the very respected Senator from the State of Iowa, Senator GRASSLEY. I would ask Senator GRASSLEY, what impact does he see arising out of this health care law in his State and, even more broadly, across this country?

Mr. GRASSLEY. I thank Senator JOHANNS for his leadership in this area. He has spoken on regulations quite regularly on the Senate floor and also in our caucus, and I thank the Senator for his leadership in that area.

No. 1, I would say there is a certain irony between a President who is going around the country now and talking about, We have got to pass legislation to create jobs, at the very same time as the Senator demonstrated in his remarks that there is a health care bill law being instituted that is making people unemployed.

There is also a certain irony in what the President does and the Secretary of HHS does with what Speaker PELOSI said at the time the bill was up: You know, we have got to pass this bill to see what this bill does. Well, now we are finding out what it does, and people don't like what it does.

You spoke about regulations causing unemployment, and you spoke about 10,000 pages of regulations. That is probably 10,000 pages of regulations out of the 66,000 pages of regulation that we have had this year, and 10,000 of that deals with health care. But think about the other 57,000 pages that deal with other pieces of legislation that are a problem for small businesses—particularly small businesses. I guess it is a problem for all business, but particularly for small business. And so far, a few regulations have been issued adding up to that 10,000 pages.

People can read this 2,700-page bill and understand what is in it, and most of them read it and understood what was in it before Speaker PELOSI said, ''We have got to pass it to find out what is in it,'' and didn't like what was in it. But in this bill, there are 1,693 delegations of authority to write regulations. So if you have 10,000 pages so far based upon the new regulations that have been written, just think what it is going to be like when all of the pages are printed for the 1,693 regulations. So I think we are at the tip of the iceberg so far in this legislation, and the damage that is done to employment and lack of job creation has just started. That is my comment on that.

I have some remarks I wish to make, if it is okay with the Senator; and if he has to go to a committee meeting, I understand.

This is not the first time this situation has happened in Iowa, and it is coming at a time when people need stability. American families are struggling to put food on their table, pay their utility bills as winter arrives, and purchase health insurance as costs are skyrocketing.

In other words, the President has promised: Pass this legislation and it is going to keep health care premiums down, but that is misleading people, and at a time when, as Senator JOHANNS said, another promise made was: If you like what you have, you are going to be able to keep it.

Well, I don't know exactly the figure—I have got it here coming up. There is a figure of several thousand people in our State who aren't going to be able to keep the health insurance they like and they already have because of this company closing down individual policies.

Unemployment continues to hover around 9 percent and 1 million Americans are underemployed, and here we have a health care bill that is causing more people to be unemployed, as well as not keeping the health insurance they want. With the economic situation our country is facing, Congress must reexamine its actions and realize the errors that were made because of partisan votes. This bill was an entirely partisan piece of legislation, unlike most social contracts in America that have been passed, such as Social Security, Medicare, and Medicaid, civil rights legislation. Those were bipartisan pieces of legislation because it was felt that when you are making this difference in America, you ought to have a broad consensus that major changes such as this ought to be made. But in this particular case, it was very partisan.

I want to go over to what Senator JOHANNS said about the Des Moines Register article. The American Enterprise Group, an insurance company participating in individual health insurance markets in Iowa and Nebraska, is leaving the market. This action shows the importance of repealing and replacing the health care overhaul passed by Democrats in Congress and signed by the President last year before the situation deteriorates even further. Just think what it is going to be like when we get the rest of these 1,693 delegations of authority to the bureaucracy to write regulations.

American Enterprise notified 110 employees in Iowa and Nebraska that they will lose their jobs sometime during the next 3 years. American Enterprise is leaving the individual health insurance market as a result of the instability caused by the implementation of this health care reform bill. American Enterprise stated it will no longer sell individual health insurance policies because of the regulatory environment created by the health care reform bill.

This isn't an isolated incident for Iowa, this one company, because the Principal Financial Group left the small group insurance market in 2010, and Principal Financial isn't a small Main Street operation. It is one of the major financial groups in the United States, but still, they could not find it to be competitive to stay in the individual market.

This has cost many Iowans their jobs, while leaving scores of small businesses and their employees to choose from health insurance plans in a health insurance market where there is less and less competition. The regulatory culprit in this incident is a medical loss ratio regulation of this legislation. This regulation requires insurers to pay a certain percentage of premiums in claims.

I know supporters will defend the regulation as ''keeping insurers in check.'' But the real world effect is to force insurers to leave the market, thereby reducing competition and choice available to consumers—not exactly what the President promised, that we are going to have competition, keep price down, and people are going to have choice, they are going to be able to keep what they want if they have it. But in this case, for these people, that isn't a promise kept. That turns out to be a falsehood.

The small group and individual markets happen to be very vulnerable. That is the problem. Insurers risk and set their premiums accordingly. Insurers are making a rational decision to get out of the market because the risks have become too great. Competition is reduced. Costs rise.

Once upon a time, the President promised Americans that if they liked the insurance program they have, they can keep it. This is more evidence that that promise rings hollow.

This recent planned pullout will leave 35,000 individuals without insurance plans that they have grown accustomed to. Forcing people to choose a different insurance option can lead to higher costs and may limit the health care accessibility these individuals have depended on for years. This is especially detrimental when these individuals have preexisting conditions or acute chronic disease. The President specifically promised that if these people want to keep their health care coverage, they would be able to do it with the passage of that law. This is just one of the many examples of how this overhaul has led to broken promises made by the President when pushing through the passage of this legislation in a partisan way.

These problems will certainly continue as more regulations are written. The Congressional Budget Office expects people in the individual market to see an average of a 10-percent to 13-percent rise in premium costs solely based on the passage of the health care law. Does that increase accessibility or affordability? No, of course it doesn't.

Not only has the health care overhaul caused health insurance companies to leave parts of the health insurance market and health insurance costs to increase, it has also put added burden on employers. Some employers will no longer offer their employees health care coverage. Higher taxes and mandates put on employers by the new health care law have left many employers without resources to maintain current coverage for family members of their employees. The negative impact this legislation is having on large employers and those insured by employers was demonstrated by the National Business Group on Health. In its recent annual survey, overall planned costs for larger employers are expected to rise by 6 percent in 2012. The National Business Group on Health also notes that 7 out of 10 employers will lose their grandfather status, meaning employees will lose their current health care plans and employers will be subject to additional regulations.

According to the same survey, 3 out of 10 employers are unsure if they will continue to insure employees due to the health care overhaul. Other employers will increase the employee share of the insurance premium, and many employers state they will likely lower the level of health care coverage offered to their employees. Walmart, as an example, will not allow many of its new part-time employees to receive health care insurance through the company. Many of these workers are underemployed. They work hard yet do not always have adequate resources to purchase health care insurance on their own, especially as costs in the insurance markets continue to increase due to the new law.

Additionally, many businesses are simply dropping coverage for their own employees because of the extra costs incurred in the legislation. It is more affordable for some employers to drop coverage for their employees and pay the fine associated with the employer mandate. An employer must provide health insurance for their employees if they have more than 50 employees or 50 full-time equivalents. Employers who are required to insure employees will be fined $2,000 per employee who seeks health insurance through one of the exchanges created under the health care overhaul, and any employer-sponsored plan must meet the definitions of HHS on what an adequate plan is under the mandate.

This requirement will increase insurance costs for employers and employees when they must upgrade health insurance benefits in order to meet the standards defined by HHS. Forcing employers to provide health insurance when they have a tough time hiring new employees just adds to the burden employers are facing in this struggling economy. Employers will likely pay their increased health insurance costs by reducing employee take-home pay or by increasing the employee share of health insurance premiums. Also, employers will continue struggling in future years as the Federal Government increases year by year the requirements of health insurance benefits needed to avoid a penalty.

Furthermore, employers already faced with economic uncertainty have to deal with the government regulations that continue to change, adding to uncertainty. An HHS rule released last November allows fully insured group plans to switch insurance providers as long as the insurance benefit provided to the beneficiaries remains comparable. However, this is only for group plans that switched after November 15 last year.

HHS wrote this new rule so more group plans can find affordable coverage and shop around for similar coverage at cheaper rates. But if the group insurance plan carrier was changed before November 15, the plan would lose grandfather status and then be subject to a whole bunch of new regulations. Ironically, what created the need for this new rule was another rule the President's administration and HHS crafted in June last year that stated plans would lose their grandfather status if they switched carriers. This chaotic situation shows what happens when the government is given more authority to regulate the health insurance market.

What we have is a mess. We need to put a halt to the implementation. We need to repeal the law and start over again with commonsense solutions. We need to move away from the regulatory and bureaucratic nightmare that is costing Americans their coverage and too many Americans their jobs.

With 10,000 pages of regulations at this point, just think what it will be like when all 1,693 regulations get written.

I yield the floor.

Mr. JOHANNS. Mr. President, I thank Senator GRASSLEY for this explanation of what this law is doing and the impact it is having. Today, of course, we are starting our discussion with the article from the Des Moines Register which talked about the regulatory impact. But we cannot forget there are other pieces to this law that have just as severe an impact. I would like to spend a minute or two talking about the destructive taxes that are in this legislation.

When we add it all up, the new health care law basically requires new taxes of about $½ trillion—not to pay down the national debt, not to solve the Nation's debt woes but to create a new entitlement. The Treasury Department's Inspector General for Tax Administration has looked at the impact of the health care law on the Tax Code and said this: ''The law is the largest set of tax law changes in 20 years.''

That is no small undertaking when we think about all that has happened over the last couple of decades, that we ended up with an impact on the Tax Code that is the largest set of tax law changes in 20 years, according to the Treasury expert who looked at this. There are 42 separate provisions adding to or amending the Internal Revenue Code in the health care law. So much of this law was put together in the last days of this debate, people were scrambling around trying to read it and understand it and get information out to their constituents.

Speaker PELOSI said: We will probably have to pass this law to figure out what is in it. And we are now figuring out what is in it, and it is so much more than a health care law. There are 42 separate provisions that add to or amend the Internal Revenue Code.

The Boston Globe weighed in on this. They pointed out the 2.3-percent excise tax on medical device suppliers, according to the Globe, ''will force industry leaders to lay off workers and curb the research and development of new medical tools.'' There is no question about it. When we add up the tax law changes, the impact from a regulatory standpoint and the other provisions of this law, this is not going to result in the promised jobs that Speaker PELOSI spoke of. It is a job killer.

If we look at what this law is doing, it will actually shrink the labor force, actually create a disincentive to work or to receive a pay raise. I referenced earlier in my comments a small business owner in the Bellevue, NE, area. I was sitting in a Business Roundtable a little more than a year ago. We were just going around the room, and I was listening to small businesses describe to me some of the challenges they face.

A woman, a small business owner, said to me: MIKE, we have studied this health care law every which way we can. I am right on the edge of having 50 employees. I am told if I go over 50 employees, I am now subject to all of the ramifications of the health care law. After looking at this I have decided I will not grow my business beyond 50 employees. I do not want to deal with this health care law.

Her discussion with me has stuck with me all of these months. Why is it that Washington would actually pass legislation that would discourage her from hiring additional employees to grow her business? It makes no sense whatsoever. Why are we here in Washington creating a disincentive for the small business owner? Why are we costing Americans jobs?

The Congressional Budget Office has looked at this legislation. They have come to the conclusion that the American labor supply will be reduced by 100,000 workers. The CBO quote is this:

> The law will encourage some people to work fewer hours or to withdraw from the labor market.

The more we learn about this health care law, the more we come to realize this is flawed policy. It passed and it was signed into law by the President of the United States, but it goes beyond flawed policy. It impacts real people who are trying to make a real living.

My comments today started with a story about 50 Nebraskans who lost their jobs or are about to lose their jobs because of the health care law. I am concerned that it is not going to stop there; that as employers are more and more burdened with the thousands of pages of regulations, they will come to realize their best strategy is to try to figure out how to deal with these new requirements and they will pull back on hiring, which is exactly what we do not want to have happen in this economy.

With that, I conclude my remarks and our colloquy today.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I also ask unanimous consent that the Senator from Illinois and the Senator from Tennessee be allowed to enter into a colloquy with me for the time that we have allotted.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARKETPLACE FAIRNESS ACT

Mr. ENZI. Mr. President, I am going to talk about a problem I have tried to solve for 14 years. Today, I think we have a new solution and ''the'' solution—The Marketplace Fairness Act. Our solution has to do with sales taxes that are not being collected at the present time. It is a loophole in the tax law.

I used to be a retailer. I never thought it was fair that I had to collect the sales taxes but the people from out of State did not have to collect the same sales tax. I used to be a mayor, and this bill is a jobs bill and an infrastructure bill. A lot of people do not realize that sales taxes help pay for schools, police and firemen. They may not realize it pays for infrastructure, such as streets and sewers. I always tell people it is a little tough to flush the toilet over the Internet.

The Marketplace Fairness Act would allow States—not require States—to be able to have the out-of-State online sellers, providing they sell more than $500,000 in a year, to collect the State sales tax. I have also been a State legislator, and I can tell you we never intended to pass a law to tax the people on Main Street who buy the yearbooks and participate in community activities to be the ones to collect the tax, and anyone from out of State to not have to do it. This bill cleans up that problem at the same time. Does it make much of a difference? Yes.

We are being asked as a Congress to give money to the States for their teachers, their firemen, and their infrastructure. It is because there is a decreasing amount of revenue going to them through sales taxes that are owed, but are not currently being collected. People may not realize it, but when they buy something online, if the tax is not collected by the seller, they still owe it. This is not a new tax; it is a tax that is already on the books. No legislator ever intended for it to just be for Main Street retailers. If States so choose, sales taxes should be collected by all retailers. In our attempts to fix this problem, we have received a number of support letters for this new bill. I hope everybody will take a look at them. They can view them online. I ask unanimous consent these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
November 9, 2011.

Hon. RICHARD DURBIN,
U.S. Senate,
Washington, DC.
Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.
Hon. MICHAEL ENZI,
U.S. Senate,
Washington, DC.
Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATORS DURBIN, ENZI, ALEXANDER AND JOHNSON: On behalf of the National Conference of State Legislatures (NCSL) we would like to express our support and appreciation for your introduction of the Marketplace Fairness Act, which will provide those states that comply with the simplification requirements outlined in the legislation, the authority to require remote sellers to collect those states' sales taxes.

At a time when states continue to face severe budget gaps—states closed shortfalls totaling $72 billion leading into the FY 2012 budget process—it is essential states be allowed to collect the revenue generated by uncollected sales taxes. In 2012, states will collectively lose an estimated $23.3 billion in uncollected sales taxes from out-of-state sales, with more than $11.3 billion alone from electronic commerce transactions, according to a study by the University of Tennessee. The amount of uncollected sales taxes will continue to grow, especially with the unprecedented growth of online commerce.

The enactment of the Marketplace Fairness Act is imperative in light of the current deliberations by the Joint Select Committee